

AMENDED IN ASSEMBLY APRIL 8, 2010

CALIFORNIA LEGISLATURE—2009—10 REGULAR SESSION

ASSEMBLY BILL

No. 2452

Introduced by Assembly Member Silva

February 19, 2010

An act to ~~amend Section 31520~~ *add Article 2.65 (commencing with Section 31512) to Chapter 3 of Part 3 of Division 4 of Title 3 of the Government Code, relating to county employees' retirement systems.*

LEGISLATIVE COUNSEL'S DIGEST

AB 2452, as amended, Silva. County employees' retirement systems: ~~boards of retirement.~~ *Orange County: retirement benefits.*

The County Employees Retirement Law of 1937 ~~sets forth the membership requirements for a board of retirement of a county and requires that the board shall consist of 5 members that include the county treasurer, 2 members from the association, and 2 members chosen by the board of supervisors~~ *authorizes counties and districts to provide retirement benefits to their employees.*

This bill would authorize the board of supervisors of Orange County to establish an optional SMART retirement plan for its general members under an executed memorandum of understanding with employee representatives, if the board of supervisors, by a majority vote, adopts a resolution providing that the provisions of this bill shall be applicable. This bill would not require members to make contributions to the SMART retirement plan.

~~This bill would make a technical, nonsubstantive change to that provision.~~

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 *SECTION 1. Article 2.65 (commencing with Section 31512) is*
2 *added to Chapter 3 of Part 3 of Division 4 of Title 3 of the*
3 *Government Code, to read:*

4
5 *Article 2.65. Alternate SMART Plan for Orange County*
6

7 *31512. (a) The retirement plan created by this article shall be*
8 *known as the Self-Managed Asset Retirement Transfer (SMART)*
9 *retirement plan.*

10 *(b) This article shall be applicable in the retirement system of*
11 *Orange County, if the board of supervisors executes a*
12 *memorandum of understanding with employee representatives and*
13 *adopts, by majority vote, a resolution providing that the article*
14 *shall be applicable.*

15 *(c) The purpose of this article is to provide an optional,*
16 *noncontributory retirement plan for general members as an*
17 *alternative to the provisions and benefits otherwise contained in*
18 *this chapter.*

19 *(d) The retirement benefits of (1) all general members employed*
20 *after the date this article is made operative and who elect the plan*
21 *created by this article and (2) existing general members who*
22 *transfer to the plan herein created, shall be governed by this*
23 *article.*

24 *(e) In the event of a conflict, this article shall supersede and*
25 *prevail over other provisions or application of provisions otherwise*
26 *contained in this chapter.*

27 *(f) Except as otherwise provided below, the provisions contained*
28 *in this chapter shall apply:*

29 *(1) Article 9 (commencing with Section 31700) of this chapter*
30 *shall not be applicable.*

31 *(2) Article 10 (commencing with Section 31720) of this chapter*
32 *shall not be applicable.*

33 *(3) Article 11 (commencing with Section 31760) of this chapter*
34 *shall not be applicable.*

35 *(4) Article 12 (commencing with Section 31780) of this chapter*
36 *shall not be applicable.*

37 *(5) Article 16.5 (commencing with Section 31870) of this chapter*
38 *shall not be applicable.*

1 (g) Article 15 (commencing with Section 31830) dealing with
2 reciprocal benefits shall be applicable, excluding those provisions
3 dealing with disability retirement, death benefits, and the
4 requirement relating to the deposit of accumulated member
5 contributions.

6 (h) Any amendments to or modifications of this chapter
7 subsequent to the effective date of this article shall not affect the
8 provisions of this article unless mutually agreed to by the employer
9 and employee representatives and adopted by majority resolution
10 of the board of supervisors.

11 (i) Except as otherwise provided, any member who upon
12 retirement receives a retirement pension calculated in accordance
13 with sections or provisions added to this article subsequent to the
14 effective date of this article shall have his or her pension calculated
15 under each applicable section or provision only for the period of
16 time that those sections or provisions were in effect, unless
17 otherwise mutually agreed between the employer and its employee
18 representatives.

19 31512.1. Unless the context otherwise requires, the definitions
20 contained in this section, govern the construction of this article.

21 (a) "Board" means the board of retirement.

22 (b) "Employer" means the county or district or agency whose
23 employees are members of the retirement system of the county.

24 (c) "Federal system" means the Old Age and Survivors
25 Insurance provisions of the Social Security Act.

26 (d) "Final compensation" means the average annual
27 compensation earnable by a general member during any three
28 years, whether or not consecutive, elected by the member at or
29 before the time an application for retirement is filed or, if no
30 election is made, during the three years in which the member or
31 former member last earned compensation preceding retirement.
32 If a member or former member has less than three years of service,
33 final compensation shall be determined by dividing total
34 compensation by the number of months of service credited to the
35 member or former member and multiplying by 12. In no event shall
36 final compensation include any disability benefits received by the
37 member or former member under a disability plan provided by the
38 employer.

39 (e) "Member" or "general member" means an employee hired
40 on a monthly permanent basis of at least three-quarter time, as

1 defined by the employer; except an employee eligible for safety
2 membership.

3 (f) “Primary insurance amount” means the monthly retirement
4 benefit payable under the federal system at the age at which full
5 retirement benefits are available under the federal system. This
6 age is deemed to be age 65 until June 30, 2012.

7 (g) (1) “Service” means the period of uninterrupted employment
8 of a member and the time in which a member or former member
9 (1) is totally disabled, and (2) is receiving disability benefits or is
10 eligible to receive disability benefits either during or after any
11 elimination or qualifying period, under a disability plan provided
12 by the employer.

13 (2) Unless otherwise provided, “service” shall not include
14 military service or public service other than service with the
15 employer.

16 (3) Except as otherwise herein provided, a member shall not
17 be credited with service for any period of time, in excess of 22
18 consecutive workdays, in which the member is absent from work
19 without pay.

20 31512.2. (a) Except as otherwise provided, there shall be no
21 general member’s contributions under the plan created by this
22 article.

23 (b) A member who voluntarily transfers to the SMART retirement
24 plan created by this article may exercise a rollover of his or her
25 accumulated contributions that are credited to his or her existing
26 account into the SMART retirement plan in accordance with the
27 applicable provisions under the Internal Revenue Code and the
28 Revenue and Taxation Code.

29 ~~SECTION 1. Section 31520 of the Government Code is~~
30 ~~amended to read:~~

31 ~~31520. Except as otherwise delegated to the board of~~
32 ~~investment and except for the statutory duties of the county~~
33 ~~treasurer, the management of the retirement system is vested in~~
34 ~~the board of retirement, consisting of five members, one of whom~~
35 ~~shall be the county treasurer. The second and third members of~~
36 ~~the board shall be active members of the association elected by it~~
37 ~~within 30 days after the retirement system becomes operative in~~
38 ~~a manner determined by the board of supervisors. The fourth and~~
39 ~~fifth members shall be qualified electors of the county who are not~~
40 ~~connected with county government in any capacity, except that~~

1 ~~one may be a supervisor and one may be a retired member, and~~
2 ~~shall be chosen by the board of supervisors. The first persons~~
3 ~~chosen as the second and fourth members shall serve for two years~~
4 ~~from the date the system becomes operative and the third and fifth~~
5 ~~members shall serve for a term of three years from that date.~~
6 ~~Thereafter the terms of office of the four elected members are three~~
7 ~~years.~~

8 ~~As used in this section “active member” means a member in the~~
9 ~~active service of a county, district, or superior court and a “retired~~
10 ~~member” means a member, including a member under former~~
11 ~~Section 31555, retired for service or disability.~~